

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

Plaintiff,

v.

GARY ARTERS,

Defendant.

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Crim. Action No. 05-84-SLR

WAIVER OF INDICTMENT

1. Gary Arters, the above-named defendant, who is accused of violating Title 18, United States Code, Section 1029(a)(5) (fraud in connection with access devices), being advised of the nature of the charge and of his rights, hereby knowingly, voluntarily and intelligently waives prosecution by indictment and consents that the proceeding may be by information instead of by indictment.

2. The defendant understands that (a) unless he waives indictment, he could not be charged with this offense unless the Grand Jury found probable cause to believe he committed the offense and returned an indictment; (b) the Grand Jury is composed of at least sixteen, but not more than twenty-three lay persons, and at least twelve of those grand jurors must find probable cause to believe that the defendant committed this offense before an indictment could be returned; and (c) by waiving indictment, the government will be proceeding by a document written by the United States Attorney and called an information and the defendant will be prosecuted on that information, rather than on an indictment.

3. The defendant has read and reviewed with his counsel the charge in the information, and is satisfied that his counsel has properly explained the charge and this waiver to him.

4. No one has made the defendant any promises or threatened or forced the defendant to waive indictment.


Defendant
Gary Arters


Counsel for Defendant
John Malik, Esq.

Date: September 28, 2005